

Opinion No. 33-661

October 10, 1933

BY: E. K. NEUMANN, Attorney General

TO: Honorable Alfonso Aguilar, Superintendent of Insurance, State Corporation Commission, Santa Fe, New Mexico.

{*82} In your letter of October 3, 1933 you ask two questions, namely:

1. May insurance companies invest in bonds issue by the Home Owners' Loan Corporation or receive them in exchange in collection of debt, or in exchange of mortgages due insurance companies?
2. Are these bonds government bonds within the meaning of Section 71-130, 1929 Code?

An affirmative answer is called for by your first question, in our opinion. The Home Owners' Loan Corporation is a corporation organized under the Federal Home Owners' Loan Act of 1933, and its entire capital is subscribed by the Government of the United States, making it clearly, as I view it, an instrumentality of the United States.

Section 71-130 of the 1929 Code provides in part, as follows:

"It shall be lawful for any domestic insurance company licensed to transact an insurance business in the State of New Mexico to invest any of its funds accumulated in its business, including its capital, in:

(c) In the bonds and obligations of the state, or in obligations which are the instrumentalities of the United States."

The same section permits them to invest in first mortgages, first lien loans or improved real estate, and certainly, in my opinion, these may be exchanged for such securities. {*83} This is merely a substitution of one lawful investment for another equally lawful.

A negative answer is called for by your second question, as I view it, for said bonds are not the obligations of the United States and cannot be classed as bonds of the United States. The answer would be different, if the principal of said bonds were guaranteed by the United States, so as to become its obligation to pay in any event.